

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

LEA OSBORNE	§	
v.	§	CIVIL ACTION NO. 6:14CV487
COMMISSIONER, SOCIAL SECURITY ADMINISTRATION	§	

ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

The Report and Recommendation of the Magistrate Judge, which contains his findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation recommends that the decision of the Commissioner be affirmed and the complaint be dismissed. Plaintiff has filed written objections.

Having made a *de novo* review of the objections filed by Plaintiff, the Court finds that the findings, conclusions and recommendation of the Magistrate Judge are correct. Plaintiff contends, in her objections, that the ALJ improperly evaluated the medical source opinion of the treating physician and that she was prejudiced by this failure to properly evaluate the opinion. *See* Plaintiff's Objections to the Report and Recommendation at 1-4.

The Magistrate Judge's Report fully addresses this issue. As the Magistrate Judge pointed out, the ALJ—as the fact finder-- has the sole responsibility for determining what weight to give the proffered medical evidence. *See Muse v. Sullivan*, 925 F.2d 785, 790 (5th Cir. 1991). The court may not reweigh the evidence in the record, try the issues *de novo*, or substitute its judgment for that of the ALJ, even if the evidence preponderates against the ALJ's decision. *See Luckey v. Astrue*, 458

F. App'x 322, 326 (5th Cir. 2011).

Substantial evidence supports the ALJ's decision to give no significant weight to Dr. Hand's opinion. *See* Tr. at 27-28. The ALJ properly discounted Dr. Hand's opinion because she failed to support it with objective medical evidence, it relied on the subjective reports of Plaintiff, and it was inconsistent with the record evidence. *See* Tr. at 18-28. *See Perez v. Barnhart*, 415 F.3d 457, 466 (5th Cir. 2005); 20 C.F.R. §§ 404.1527(c)(3), (c)(4), 416.927(c)(3), (c)(4). The record does not support the argument that the ALJ improperly weighed Dr. Hand's opinion.

Therefore, Plaintiff's objections are without merit and will be overruled. There is substantial evidence in the record supporting the Commissioner's decision. The findings and conclusions of the Magistrate Judge are therefore adopted as those of the Court.

In light of the foregoing, it is

ORDERED that Plaintiff's objections are hereby **OVERRULED**. It is further

ORDERED that the decision of the Commissioner is **AFFIRMED** and the complaint is hereby **DISMISSED WITH PREJUDICE**. It is further

ORDERED that any motion not previously ruled on is **DENIED**.

SIGNED this 28th day of September, 2015.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE